

REMARKS

Favorable reconsideration of this application in light of the following discussion is respectfully requested.

Claims 1-9 and 12 are presently pending in the present application. Claim 1 has been amended by way of the present Amendment. Claims 10 and 11 have been canceled without prejudice or disclaimer. No new matter is introduced by this amendment.

In the Office Action, claims 10 and 11 were rejected under 35 U.S.C. §101; and claims 1-12 were rejected under 35 U.S.C. §102(e) as being anticipated by *Birsan et al.* (U.S. Patent No. 6,848,078).

The cancellation of claims 10 and 11 has rendered the rejection under 35 U.S.C. §101 moot. Accordingly, the Applicants respectfully request the withdrawal of this rejection.

Regarding the rejection under 35 U.S.C. §102(e), the Applicants respectfully request the withdrawal of the anticipation rejection for the reasons set forth below.

MPEP §2131 notes that “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” Furthermore, MPEP §2131 notes that in order to establish anticipation “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” As will be demonstrated below, *Birsan et al.* clearly does not meet each and every limitation of independent claim 1.

Independent claim 1 recites “[a] method for determining deviations of an end-system message of modular structure generated in a hierarchically-structured end system of a telecommunications device structured and based on an OSI reference model by comparison with a reference message comprising the steps of: reading in a reference message, **reading in an**

end-system message containing information of different layers according to the OSI reference model generated in the end system, performing a message-structure analysis of the reference message, performing a message-structure analysis of the generated end-system message, **selecting a part of the generated end-system message, determining deviations of the selected part** of the end-system message from the reference message based on a structure and values for parameters of structural units, and, **outputting structural units deviating from the reference message indicating values of parameters of respective structural units of the selected part** of the end-system message generated in the end system. The Applicants submit that *Birsan et al.* clearly does not disclose all of the above limitations.

Birsan et al. describes a software tool that allows a user to compare a base file containing XML statements to a modified file, and from the comparison to create a third file. The comparison between the base file and modified file results in a comparison tree that contains, as nodes, all of the information in the base file as well as the differences located in the modified file. A user can then traverse the third data structure and select nodes of interest to create a new fourth data structure. (See Abstract, col. 1, lines 9-18, and col. 7, lines 29-36.)

Birsan et al. refers in general to a software tool for comparison of data files, preferably XML statements. Thus, the comparison is related to files as a whole, which exist in a database for access with no covering of internal procedures within the involved equipment. The method of comparison described in *Birsan et al.* is a comparison of files, which are imported or exported by the overall end system. Hence there is no possibility given to get access to internal messaging procedures. To the contrary, the present invention advantageously provides a method that allows the possibility to analyze internal messages within a telecommunication device, which are normally not accessible.

In *Birsan et al.*, there is no hint for comparing a **selected part** of the considered file with a corresponding modified counterpart, a feature that is disclosed (see, e.g., page 3, line 22, through page 4, line 9) and claimed in the present application. As noted above, claim 1 recites **selecting a part of the generated end-system message, determining deviations of the selected part** of the end-system message from the reference message ..., and, **outputting structural units deviating from the reference message indicating values of parameters of respective structural units of the selected part** of the end-system message generated in the end system. Therefore, it is possible to select parts of special interest, which simplifies the comparison and reduces effort (i.e., the computing performance required). Such selection of a part of the whole is not disclosed or contemplated by *Birsan et al.* The present invention is therefore advantageous as a tool that can be used during predevelopment. In particular, the selection of a part allows the use of reference messages, which are not generated by the system but merely serve as a basis for comparison. A limited number of messages can therefore be used.

Another fundamental difference between the present invention and the software tool described in *Birsan et al.* is the fact that it involves **a telecommunication device that generates the end-system message**, and a message that is read in, for example, from a message generating device that generates the reference message (see, e.g., page 1, lines 4-6, page 2, lines 10-12, page 7, lines 9-13, and page 8, lines 16-22, of the application), while *Birsan et al.* relates to XML files and user modified versions of XML files.

The end-system messages, generated by the telecommunication device, can represent data streams that are exchanged between various layers according to the OSI reference model of a base station or a mobile telephone station as the end system in a telecommunication device. (See, e.g., page 6, lines 6-17, of the present application.) Claim 1 recites a step of **reading in**

an end-system message containing information of different layers according to the OSI reference model generated in the end system. This express recitation of a message containing different layers according to the OSI reference model is clearly distinguishable over the teachings in *Birsan et al.* *Birsan et al.* does not disclose the reading in of such a message.

Accordingly, *Birsan et al.* fails to disclose all of the limitations recited in independent claim 1 of the present application. Thus, the Applicants respectfully request the withdrawal of the anticipation rejection of independent claim 1.

Claims 2-9 and 12 are considered allowable for the reasons advanced for independent claim 1 from which they depend. These claims are further considered allowable as they recite other features of the invention that are neither disclosed nor suggested by the applied references when those features are considered within the context of independent claim 1.

Therefore, the present application, as amended, overcomes the rejections of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 519-9957 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,
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